



# NaCCA

National Check Cashers Association, Inc.

Financial Services for America's Local Communities

# 39

April 8, 1999

Office of the Fiscal Assistant Secretary  
Department of the Treasury  
Room 2112  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

RE: 31CFR Ch II  
RIN 1505-AA74

Dear Sir or Madam:

These comments are being provided in response the Advance Notice of Proposed Rulemaking, "Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers", published in the Federal Register on January 8, 1999.

Since enactment of the Debt Collection Improvement Act of 1996, the National Check Cashers Association has endeavored to develop services which would utilize our vast network of check cashers to help achieve the purposes of the Act. We believe our industry is uniquely situated to assist the Department in meeting its goal of delivering federal payments through electronic means rather than by paper check. With more than 5,000 neighborhood outlets, check cashers are located where the need for personal service is greatest. Moreover, we are in the best position to inform customers of the benefits of electronic funds transfer and smooth their transition from the paper-based system.

#### A Matter of Choice

We believe consumers should be provided a wide range of choices about how to receive their federal payments. Most recipients will choose to receive their funds at the depository institution where they hold an account. Others will choose to open an "Electronic Transfer Account" (ETA)" as proposed by the Department. Some will obtain hardship waivers and continue to receive their regular paper checks. And others should be free to receive payments through check cashers and other non-depository payment service providers. Permitting this range of choices empowers consumers and permits them to choose the most convenient and efficient alternative for their own particular circumstances.

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Limitations on eligible institutions, services or fees would only serve to deny options to recipients of federal payments. And the fewer choices available to recipients, the more likely they are to opt for a hardship waiver and continue to receive a paper check.

#### Bank Partnership

Early in 1997, and after a competitive procurement process, the National Check Cashers Association (NaCCA) selected Citicorp Services, Inc. to provide debit card services to recipients of federal payments. This arrangement teams the financial institution best suited to leverage its existing Electronic Benefits Transfer (EBT) system and debit card technology with the industry most capable of delivering financial services in the communities convenient to recipients.

This "NaCCA Preferred Card" program provides multiple benefits for customers while meeting the goals of the Debt Collection Practices Act. Under this program the following benefits will be provided:

- ◆ Accounts held in name of recipient
- ◆ Federal Deposit Insurance Corporation insurance
- ◆ Full Federal Reserve Regulation E protection
- ◆ Permissible multiple withdrawals
- ◆ Access to major ATM networks
- ◆ Access to funds with counter service at NaCCA members' outlets
- ◆ No minimum balance requirements
- ◆ Access to funds at point of sale (POS) locations

The Department sought comments to several questions in the ANPR. NaCCA's responses are as follows:

***Should Treasury regulate or prohibit arrangements between financial institutions and payment service providers in which electronic federal payments are deposited into a recipient's non-ETA account at a financial institution but made available to the recipient through a payment service provider?***

There is absolutely no reason why the Department of the Treasury ought to regulate the private arrangements between depository institutions and check cashers or other payment service providers. As discussed above, consumers will have a range of options about how to receive their federal payments. They can open traditional accounts at banks, thrifts and credit unions; choose to open an Electronic Transfer Account; or receive

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payments through a private arrangement such as the NaCCA Preferred Card or one of the other alternatives being developed in the market by other payment service providers. The result of regulation could be to reduce the options available to recipients by artificially restraining competition. In addition, to the extent that fewer choices are available to recipients, more will opt to continue to receive paper checks.

***Do such arrangements deny the recipient either: (a) an account at a financial institution, (b) access to such account, (c) access at a reasonable cost, or (d) the same consumer protections with respect to the account as other account holders at the same institution?***

The NaCCA Preferred Card does not reduce these benefits for recipients. Rather, they offer additional value to recipients. The NaCCA Preferred Card provides a bank account in the name of the individual, a monthly statement and Regulation E protection at a reasonable cost. Recipients can choose to access funds at an automated teller machine, point of service location or at a check casher. These accounts will provide full disclosure to recipients regarding fees and services available in the account. The recipient can choose among the various alternatives.

We are anticipating that competition from the ETA and an array of competitive payment system providers as well as low-cost bank accounts will impact the fees to be charged. Clearly, the best way to minimize fees is through competition, and we expect it to be vigorous. As the Department is aware, the NaCCA Card already faces stiff competition from strong national payment service providers. The consumer can only benefit. The point is that we provide an access and convenient service others do not, and recipients ought not to be inhibited from making that choice.

Under the proposed ETA rule, bank fees have been set at \$3.00 per month, with a minimum of four cash withdrawals included. In addition, Treasury proposes paying depository institutions \$12.60 per account to defray set-up costs and asked for comments as to whether additional subsidies should be offered. Proposing any such fee limitation for payment service providers, including check cashers is unnecessary and would be unworkable. We seek no subsidy. In fact, the industry has invested substantial funds and resources to bring this product to market.

The typical fee for cashing a government check is one to two percent. These are reasonable fees when one considers that we provide personal service, offer longer hours than depository institutions, and must pay for heat, light, insurance, armored car service, equipment and personnel. Like any other business, the fees we charge reflect the cost of delivering the service and a reasonable rate of return. A uniform fee structure is

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unworkable for our industry because costs vary dramatically from place to place. Volumes are far greater in the Bronx than in Little Rock. Rents and personnel costs vary considerably as does the price of crime insurance.

Unlike banks, thrifts and credit unions, we must rely almost exclusively on transaction fees for our revenues. Our cost of providing electronic services cannot be compared to depository institutions. They already have an established infrastructure for handling electronic funds transfers. Many of our members are just now establishing them, making significant investments. And unlike banks, our members in most instances don't have a large number of existing customers using the equipment. Our fixed costs must be apportioned over a smaller universe of customers. Even so, we are not asking for any subsidy from the Department of the Treasury. We are confident that our superior service and convenient locations will encourage our customers to choose to stay with us. Some may opt to use ETA's and others direct deposit—but it will be their choice.

Imposing a fee limit on payment service providers would be counterproductive to the goal of persuading more recipients to use electronic funds transfer. Many check cashers have built successful businesses in locations close to banks. They are able to survive against bank competition because many customers prefer our personal service and convenient hours, and want to pay for services on a transaction basis. If these individuals are not given the opportunity to access funds electronically in the environment they find comfortable, then they will revert to the paper system by exercising their waiver rights.

In the proposed ETA regulations, Treasury acknowledged implicitly that consumers are willing to pay for additional service. Banks are free to charge additional fees if recipients use more than four withdrawals per month. And "if the (ETA) account is accessed through a network ATM owned by another institution, the account holder will be responsible for any charges assessed by the ATM owner."

Consumers expressed their willingness to pay additional fees for ATM access "even at an incremental cost" according to the June 15<sup>th</sup>, 1998 Dove Associates Focus Group Summary Report, prepared for the Department. If consumers are free to use off-us ATM's and pay the associated free market charges, their opportunity to access their funds at a payment service provider should not be limited by regulation or restrictive fee caps.

#### Exposure to other products

The Department cites concerns expressed by some earlier public comments regarding deferred deposit arrangements available at some check cashers. It is difficult to see how that issue is relevant to EFT99. Under the NaCCA Card program there is no opportunity

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for a check casher to hold a check or other instrument for collateral. All deposits are made to the customer's account electronically using the automated clearinghouse.

Furthermore, because the system is open, the customer could access funds at an ATM or point of service retail location. The check casher could not have any way of being assured of repayment under EFT99.

In addition, check cashers do not seek to utilize federal payments through EFT99 for engaging in payday advances.

***Should all payment service providers be subject to regulation, or only a particular subset, and if only a subset, what is the basis for such distinction?***

No case has been made for the regulation of payment service providers. So long as the federal payment is sent directly to an insured depository institution, the disposition of the funds from that point on should not be subject to any more federal regulation.

In conclusion, we believe that the free market will best develop a range of alternatives which will benefit consumers. Attempts to regulate private contractual arrangements will only serve to stifle innovation and limit the services available to individuals. In addition, the effect of limiting locations available to recipients for receiving payments will only result in fewer people choosing to receive payments by electronic means.

Regulators should give credit to the wisdom of people to determine what is best for them. Our customers choose to use us, not out of necessity, but for convenience and service. People using check cashers have ready access to their funds, with no check holds. They get personal service, many times in a language other than English. Our hours are longer and we provide ancillary services, including the sale of money orders, collection of utility payments, sale of auto tags and other localized services. Our customers choose to use us. They want to be able to continue to do so into retirement. That right to choose should be allowed to flourish without the impediment of unnecessary regulation.

Sincerely,



Stephen Wolf  
Chairman  
Federal Payments Steering Committee